

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863 FAX (831) 427-4877
www.coastal.ca.gov

W8

CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

For the

December Meeting of the California Coastal Commission

MEMORANDUM

Date: December 10, 2008

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the December 10, 2008 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

REGULAR WAIVERS

1. 3-08-055-W John & Mary Munch (Pacific Grove, Monterey County)

DE MINIMIS WAIVERS

1. 3-08-039-W California Department Of Parks & Recreation, Attn: Daniel Millsap, Project Manager (North Coast, Santa Cruz County)

IMMATERIAL AMENDMENTS

1. 3-08-013-A1 Cannery Row Marketplace (Monterey, Monterey County)
2. 3-03-016-A1 Kurt & Janna Lang (Live Oak, Santa Cruz County)

TOTAL OF 4 ITEMS

DETAIL OF ATTACHED MATERIALS

REPORT OF REGULAR WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13250(c) and/or Section 13253(c) of the California Code of Regulations.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-08-055-W John & Mary Munch	Remodel and addition to an existing single family residence.	142 18th Street, Pacific Grove (Monterey County)

REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-08-039-W California Department Of Parks & Recreation, Attn: Daniel Millsap, Project Manager	Remove existing vault toilets and construct new Americans with Disabilities Act (ADA) compliant vault restrooms to include two structures with two toilets per structure; and install 2 ADA parking spaces.	Waddell Beach (Big Basin Redwoods State Park, 7 1/2 miles northwest of Davenport), North Coast (Santa Cruz County)

REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-08-013-A1 Cannery Row Marketplace	CDP 3-08-013 would be amended to modify the Special Conditions regarding the timing for submittal of all project plans for Executive Director review and approval from "Prior to Issuance of the Coastal Development Permit" to "Prior to Construction." The proposed amendment also modifies Special Condition #2 (Water Supply Contingency Plan), Special Condition #4 (Historic Reconstruction/Rehabilitation Plan), Special Condition #6 (Design Plans), Special Condition #12 (Marketing), and Special Condition #16 (Incorporation of EIR Mitigations and City's Conditions).	457, 465, 470, 484, 565, 570 Cannery Row (along both inland and seaward sides of Cannery Row between Hoffman Street to the north, Monterey Bay to the east, Drake Street to the south, and the Monterey Peninsula Recreation Trail to the west),

3-03-016-A1 Kurt & Janna Lang	Amend CDP 3-03-016 to modify special condition 12(h) to extend the revetment maintenance term by ten years, and to specify that future ten-year extensions could be pursued subject to a finding of no changed circumstances that may affect the consistency of the development with the policies of Chapter 3 of the Coastal Act and thus warrant a re-review of the permit.	2-2790 East Cliff Drive (beach and bluffs seaward and beachward 2-2790 East Cliff Drive at 26th Avenue/Moran Lake Beach), Live Oak (Santa Cruz County)
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NOTICE OF PROPOSED PERMIT WAIVER

Date: November 24, 2008
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCAM*
Mike Watson, Coastal Planner *MW*
Subject: Coastal Development Permit (CDP) Waiver 3-08-055-W
Applicants: John and Mary Munch

Proposed Development

Remodel and addition to an existing single family residence located in the Pacific Grove Retreat at 142 18th Street in the City of Pacific Grove.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13250 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The project is located more than one block inland of the Pacific Grove shoreline, and thus one-block inland of the recreational trail and main public access thoroughfare that winds along the Pacific Grove bluffs. The proposed residence would be compatible with the size, scale, and aesthetics of the residential neighborhood in which it is located, and it includes drainage BMPs to reduce storm water runoff and remove contaminants prior to conveyance off-site. The proposed new residence was reviewed and received discretionary approval by the City's Architectural Review Board to ensure conformance with the standards / requirements of the City's Municipal Code and the certified Land Use Plan. The project has no potential for adverse effects on coastal resources, including public access to the shoreline, and is consistent with Chapter 3 of the Coastal Act.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, December 10, 2008, in San Francisco. If these Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



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**NOTICE OF PROPOSED PERMIT WAIVER**

Date: November 24, 2008
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DC*
Susan Craig, Coastal Planner *S. Craig*
Subject: Coastal Development Permit (CDP) Waiver 3-08-039-W
Applicant: California Department of Parks and Recreation

Proposed Development

Remove existing vault toilet and install two new vault restrooms that are compliant with the Americans with Disabilities Act (ADA); install two new ADA parking stalls on the existing gravel parking lot by grading, leveling, and paving the ground surface. Project is located at the State Parks parking lot at Waddell Beach in Big Basin Redwoods State Park, directly adjacent to Highway 1 in northern Santa Cruz County.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed project will remove the existing dilapidated restroom facility and provide upgraded ADA-compliant restroom facilities and associated ADA parking stalls at this heavily used beach area. The proposed project includes appropriate best management practices to protect water quality during construction, and also includes appropriate measures to minimize construction impacts to public access to the existing parking lot and all beach access points. State Parks has waived any Coastal Act Section 30235 rights that may apply to the subject development so as not to prejudice future coastal permit and planning decisions affecting the State Parks' parking lot. In sum, the proposed project will enhance public access and recreational opportunities consistent with the requirements of the Coastal Act.

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, December 10, 2008, in San Francisco. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

If you have any questions about the proposal or wish to register an objection, please contact Susan Craig in the Central Coast District office.



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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: November 25, 2008
To: All Interested Parties
From: Dan Carl, Central Coast District Manager *DCM*
Susan Craig, Coastal Planner
Subject: Proposed Amendment to Coastal Development Permit (CDP) 3-03-016
Applicants: Kurt and Janna Lang

Original CDP Approval

CDP 3-03-016, approved by the Coastal Commission on January 14, 2004, provided for both rip-rap revetment repair and for future revetment maintenance work on a previously permitted revetment on the beach and bluffs seaward and beachward of 2-2790 East Cliff Drive at 26th Avenue/Moran Lake Beach in the Live Oak beach area of unincorporated Santa Cruz County.

Proposed CDP Amendment

CDP 3-03-016 would be amended to modify special condition 12(h) to extend the revetment maintenance term by ten years, and to specify that future ten-year extensions could be pursued subject to a finding of no changed circumstances that may affect the consistency of the development with the policies of Chapter 3 of the Coastal Act and thus warrant a re-review of the permit. The Commission's reference number for this proposed amendment is 3-03-016-A1.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The proposed amendment would allow for ongoing maintenance to a previously permitted revetment (and related bluff drainage, vegetation, and irrigation components of the project) all subject to the as-built plans and the shoreline plan approved by the base CDP. Past extending the term, the proposed amendment would not alter the basic premise of the Commission's decision, and it would not result in adverse coastal resources impacts.

Coastal Commission Review Procedure

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on December 10, 2008 in San Francisco. If three Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP amendment.

If you have any questions about the proposal or wish to register an objection, please contact Susan Craig in the Central Coast District office.



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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: November 26, 2008

To: All Interested Parties

From: Dan Carl, Central Coast District Manager *DCarl*
Susan Craig, Coastal Planner *S. Craig*

Subject: Proposed Amendment to Coastal Development Permit (CDP) 3-08-013
Applicant: Cannery Row Marketplace, LLC

Original CDP Approval

CDP 3-08-013 was approved by the Coastal Commission on August 7, 2008, and provided for the construction of a mixed use commercial-retail/residential project consisting of: 87,362 sq. ft. of retail and retail support use, including 30,000 sq. ft. of restaurant use; 38 market-rate condominiums; 13 affordable housing units; 8,408 sq. ft. of coastal/community use; 377 parking spaces in garages; an onsite desalination system with seaward intake/discharge components; rehabilitation of the historic Stohan's building as a history center with an adjacent history plaza; lateral public access along the entire seaward components of the project; replication of an historic utility bridge over Cannery Row; and development of a community park, on Cannery Row in the City of Monterey.

Proposed CDP Amendment

CDP 3-08-013 would be amended to modify the Special Conditions regarding the timing for submittal of all project plans for Executive Director review and approval from "Prior to Issuance of the Coastal Development Permit" to "Prior to Construction." The proposed amendment also modifies Special Condition #2 (Water Supply Contingency Plan), Special Condition #4 (Historic Reconstruction/Rehabilitation Plan), Special Condition #6 (Design Plans), Special Condition #12 (Marketing), and Special Condition #16 (Incorporation of EIR Mitigations and City's Conditions). See attached Exhibit A for the proposed amendment language. The Commission's reference number for this proposed amendment is 3-08-013-A1.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is not a material change to the permit because the proposed amendment will not result in adverse impacts to coastal resources or public access.

Coastal Commission Review Procedure

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on Wednesday, December 10, 2008, in San Francisco. If three Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP



NOTICE OF PROPOSED PERMIT AMENDMENT

CDP 3-08-013 (Ocean View Plaza)

Proposed Amendment 3-08-013-A1

Page 2

amendment.

If you have any questions about the proposal or wish to register an objection, please contact Susan Craig in the Central Coast District office.



California Coastal Commission

2. Special Conditions

- 1. Offshore Intake/Discharge Plans.** ~~PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT CONSTRUCTION~~, the Permittee shall submit for Executive Director review and approval two copies of full-scale plans specific to the offshore intake and discharge components of the approved project (Offshore Plans). The Offshore Plans shall be substantially in conformance with the offshore intake and discharge plans submitted to the Coastal Commission (as shown on pages 15-24 of Exhibit 3) except that the offshore plans shall provide for the following:

 - a. Maintenance measures that ensure that the subsurface components of the approved project remain buried below the ocean floor in a manner that avoids impacts to the offshore environment. Such measures shall, at a minimum, include a clear schedule for inspection and all procedures to be applied for underwater work. The Permittee shall undertake development in accordance with the approved Offshore Plans.
 - b. A mitigation plan to address above-surface intake impacts in the event that the emergency above-surface intake needs to be used for a period of time greater than that authorized in Regional Water Quality Control Board Waste Discharge Requirements Order No. R3-2007-0040.
- 2. Water Supply Contingency Plan.** ~~PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT CONSTRUCTION~~, the Permittee shall submit for Executive Director review and approval two copies of a water supply contingency plan. The contingency plan shall clearly describe all measures that will be taken to provide substitute potable water in the event that the desalination facility does not provide adequate potable water to serve the approved project. The use of water from any water supplier who obtains water from sources located within or outside the coastal zone within Monterey County where such water use would result in adverse coastal zone resource impacts shall be prohibited. ~~The contingency plan shall at a minimum clearly identify the contingency water source; all documentation associated with securing the source (i.e., all agreements, contracts, etc.); all means of collecting, transporting, and delivering the source water to the approved project site, and; all criteria requiring implementation of the contingency plan. In the event that an emergency arises such that the desalination facility cannot provide adequate potable water for the project, the Permittee shall apply to the Commission for an emergency permit to implement the water supply contingency plan. The Permittee shall undertake development in accordance with the approved Water Supply Contingency Plan.~~
- 3. OVCSO Ownership Required.** PRIOR TO OCCUPANCY OF ANY PORTION OF THE APPROVED PROJECT AND PRIOR TO WATER BEING PROVIDED FROM THE DESALINATION FACILITY TO SERVE TO THE APPROVED PROJECT, the Permittee shall submit for Executive Director review and approval clear written evidence that ownership of the desalination facility (both onshore and

offshore components) has been transferred in full to the Ocean View Community Services District (OVCS D), and that the OVCS D agrees to be bound by the terms and conditions of this coastal development permit that pertain to the desalination facility. Such written evidence shall include a copy of the water system dedication instrument as set forth in the Indemnification Agreement between the City of Monterey and Cannery Row Marketplace LLC (i.e., Addendum C, Paragraph e – see page 20 of Exhibit 13).

4. **Historic Reconstruction/Rehabilitation Plans.** ~~PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT CONSTRUCTION,~~ the Permittee shall submit for Executive Director review and approval two sets of full-scale plans specific to the historic Stohan's Building, the San Xavier Warehouse, and the fish holding pens (Historic Plans) to confirm that the plans are consistent with the project as approved by the City of Monterey, including the approvals obtained from the City's Historic Preservation Committee and the City's Architectural Review Committee. ~~The Historic Plans shall be consistent with the U.S. Secretary of Interior Standards for Rehabilitation (Stohan's Building) and Reconstruction (San Xavier Warehouse) and all other applicable U.S. Secretary of Interior and California State Office of Historic Preservation standards, and shall clearly specify all measures to be taken to achieve such standards, including maximizing the use of salvaged materials. The Permittee shall undertake development in accordance with the approved Historic Plans, as approved by the City.~~

5. **Public Access Plans.** ~~PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT CONSTRUCTION,~~ the Permittee shall submit for Executive Director review and approval two sets of full-scale public access plans (Access Plans). The Access Plans shall clearly describe the manner in which general public access associated with the approved project is to be managed and provided, with the objective of maximizing public access to certain common and other public access areas of the site (including all site walkways, promenades, and stairways; the history plaza; the Stohan's building; the community park; and all other areas and public access amenities described in this special condition). The Access Plans shall be substantially in conformance with the public access portion of the plans submitted to the Coastal Commission (including as shown on page 2 of Exhibit 3) except that the Access Plans shall provide for the following changes to the project:

- (a) **Building B Access Promenade.** A lateral public access promenade that is a minimum of 8-feet wide shall be provided along the seaward side of Building B. This Building B access promenade shall be provided completely seaward of Building B without any Building B or other encumbrances (i.e., no building overhangs, walls, etc.), and shall seamlessly connect to the onsite public access areas (including the history plaza, the overlook areas, and the Building A access promenade). The upcoast end of the Building B access promenade shall include a stairway, ramp, or equivalent component designed to provide access to the 10-foot-wide public access easement area located along the shoreline in the manner most conducive to facilitating a future seamless connection to the upcoast Chart House accessway and improvements to it.

- (b) **Building A Access Promenade.** The Building A access promenade shall allow for a future seamless connection to potential future public accessways at the El Torito property.
- (c) **Retain Proposed Public Access Amenities.** The Access Plans shall retain the public access promenade along Building A, the overlook areas, the history plaza, the community park, the stairways to the rocky shoreline, and the 10-foot wide public access easement along the rocky shoreline as originally proposed and as shown on page 2 of Exhibit 3.
- (d) **Public Access Signs/Materials.** The Access Plans shall identify all signs, handouts, brochures, and any other project elements that will be used to facilitate, manage, and provide public access to the approved project, including identification of all public education/interpretation features that will be provided on the site (educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided. The signs shall be designed so as to provide clear information without impacting public views and site character. At a minimum, public access directional signs shall be placed at the Cannery Row entrances to the history plaza, at either end of the access promenades located along Buildings A and B, at the top of each set of stairs that lead to the 10-foot wide easement along the rocky shoreline, and at the junctions of the community park with the recreation trail and with Cannery Row. At a minimum, public access interpretive signs shall be placed at the history plaza, the historical bayside fish holding tanks, and the bayside lateral access promenades.
- (e) **Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities, including all of the areas and amenities described above, shall be clearly identified as such on the Access Plans (including with hatching and closed polygons so that it is clear what areas are available for public access use).
- (f) **No Public Access Disruption.** Development and uses within the public access areas that disrupt and/or degrade public access (including areas set aside for private uses, barriers to public access (furniture, planters, temporary structures, private use signs, etc.) shall be prohibited. The public use areas shall be maintained in a manner that maximizes public use and enjoyment.
- (g) **Public Access Amenities Provided Prior to Occupancy.** All public access components of the approved project shall be constructed and ready for use prior to residential or retail/restaurant occupancy of the project.
- (h) **Public Access Use Hours.** All public access areas and amenities shall be available to the general public free of charge from one hour before sunrise to midnight or until the last close of business for the retail/restaurant components of the approved project, whichever is earlier. The bayside access components may be closed during these hours if necessary for public safety due to storms or otherwise dangerous conditions, but must be reopened as soon as the dangerous conditions have passed.

- (i) **Public Access Areas and Amenities Maintained.** The public access components of the project shall be maintained in their approved state in perpetuity.

The Permittee shall undertake development in accordance with the approved Access Plans, which shall govern all general public access to the approved project pursuant to this coastal development permit.

6. **Design Plans.** ~~PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT CONSTRUCTION~~, the Permittee shall submit for Executive Director review and approval two sets of full-scale design plans. The design plans shall clearly identify all measures that will be applied to ensure that the project design, as approved by the City of Monterey, including all structures and including all other project elements within the public view (e.g., walkways, paved areas, railings, benches, tables, chairs, lighting, signs, landscaping, etc.), emulates is consistent with the Cannery Row aesthetics as detailed in the policies of the Development chapter of the Cannery Row LUP (see Exhibit 14). At a minimum, the design plans shall clearly identify all publicly visible structural elements, materials, and finishes (including through site plans and elevations, materials palettes and representative photos), ~~product brochures, etc.), and shall clearly ensure that all residential development (including all balconies and decks) is camouflaged in such a way as to appear from public viewing areas to be consistent with the architectural character of Cannery Row as identified in Exhibit 14, and in no to way appear as private residential development. Any design features (including but not limited to materials, finishes, shapes, etc.) that cannot conclusively be shown to be consistent with the architectural character of Cannery Row as identified in Exhibit 14 shall be prohibited.~~
7. **Drainage Plans.** ~~PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT CONSTRUCTION~~, the Permittee shall submit for Executive Director review and approval two sets of full-scale drainage plans that are consistent with the Regional Water Quality Control Board's storm water discharge permit for the City.
8. **Wave Impacts/Tsunami Warning Plans.** The Permittee shall: 1) incorporate design and construction materials and methods to withstand wave impacts from a 100-year storm event; 2) require appropriate warning signs and access restrictions during dangerous conditions, and; 3) develop an emergency response plan in the event of a tsunami.
9. **Construction Plans.** ~~PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT CONSTRUCTION~~, the Permittee shall submit for Executive Director review and approval two sets of full-scale construction plans. The construction plans shall include, at a minimum, the following:
- (a) **Construction Areas.** The plans shall identify the specific location of all construction areas, all staging areas, all storage areas, and all construction access corridors (to the construction sites and staging areas). All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to minimize construction encroachment on intertidal areas, Cannery Row, and all public access points, and to have the least

impact on public access overall.

(b) Construction Methods and Timing. The plans shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from public recreational use areas and intertidal areas (including using the space available on the inland portion of the Permittee's property for staging, storage, and construction activities to the maximum extent feasible, and including using unobtrusive fencing (or equivalent measures) to delineate construction areas). All erosion control/water quality best management practices to be implemented during construction and their location shall be noted.

(c) Construction Requirements. The plans shall include the following construction requirements specified by written notes on the Construction Plan. Minor adjustments to the following construction requirements may be allowed by the Executive Director if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

- All work shall take place during daylight hours and lighting of the intertidal area is prohibited.
- Construction work or equipment operations shall not be conducted below the mean high water line unless tidal waters have receded from the authorized work areas.
- All construction materials and equipment placed on the beach during daylight construction hours shall be stored beyond the reach of tidal waters. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs.
- Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
- Equipment washing, refueling, and/or servicing shall not take place on bayside parcel.
- The construction site shall maintain good construction site housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the intertidal area, etc.).
- All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each workday. At a minimum, silt fences, straw wattles, and/or other equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from entering into the Pacific Ocean.

- All public access areas impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any beach materials shall be filtered as necessary to remove all construction debris from the area near the Monterey Bay.
- The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least three working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements of the condition above shall be enforceable components of this coastal development permit. The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Executive Director. No changes to the approved Construction Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.

10. **Water Supply Production and Use Restrictions.** No more than 27.89 acre-feet per year of potable water shall be produced by the desalination facility, and all such potable water produced shall only be used on-site for the approved project.
11. **Archaeology.** The City's conditions regarding archaeological resources are hereby incorporated into this coastal development permit approval, and supplemented to ensure that appropriate Native American consultations are included as well.
12. **Marketing.** ~~All documents related to the marketing and sale of the retail and condominium components of the approved project, including but not limited to marketing materials, sales contracts, deeds, CC&Rs and similar documents, shall notify buyers that:~~ In addition to the disclosure documents required by the California Department of Real Estate, the purchase, sale, and rental documents shall include a separate disclosure document that notifies these parties that: (a) the water for all components of the project (including the retail and condominium components) will be provided solely by the project's onsite desalination facility until such time as municipal water becomes available to serve the project; (b) that use of municipal water supply in the event that the desalination facility does not provide adequate potable water to serve the approved project is prohibited; (c) that contingency potable water cannot come from the California-American Water Company or from any water supplier who obtains water from sources located within or outside the coastal zone within Monterey County where such water use would result in adverse coastal zone resource impacts; and (d) that the cost of the water supplied by the desalination facility may be substantially higher than the cost of water provided to surrounding properties by California-American Water Company.
13. **Coastal Hazards Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** The Permittee acknowledges and agrees: (i) that the site is subject to extreme coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, coastal flooding,

and geologic instability; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) that any adverse effects to property caused by the permitted project shall be fully the responsibility of the Permittee.

14. Desalination Facility Assumption of Risk, Waiver of Liability, and Indemnity

Agreement. The Permittee acknowledges and agrees: (i) that water for all components of the project (including residential and retail components) shall be provided solely by the project's onsite desalination facility until such time as municipal water becomes available and is allocated to the project; that connection to the municipal water distribution system in the City of Monterey is otherwise prohibited; that the desalination facility is limited to producing 27.89 acre-feet per year that can only be used to serve the approved project; and that a water supply contingency plan is in place to provide substitute potable water in the event that the desalination facility does not provide adequate potable water to serve the approved project, where such contingency plan prohibits the use of substitute water from any water supplier who obtains water from sources located within or outside the coastal zone within Monterey County where such water use would result in adverse coastal zone resource impacts; (ii) to assume the risks to the Permittee and the property that is the subject of this permit in the event that the desalination facility does not provide adequate potable water to serve the approved project and/or the approved contingency plan is implemented; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury, damage or inconvenience resulting from parts (i) and (ii) above; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury, damage, or inconvenience due to parts (i) and (ii) above; and (v) that any adverse effects to property caused by parts (i) and (ii) above shall be fully the responsibility of the Permittee.

15. Other Agency Approvals. PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit for Executive Director review and approval a copy of a valid permit, letter of permission, or evidence that no permit/permission is necessary for the project approved by this coastal development permit from the following agencies: (a) U.S. Army Corps of Engineers; (b) Monterey Bay National Marine Sanctuary; (c) California Department of Fish and Game; (d) Monterey Peninsula Water Management District; (e) State Lands Commission; (f) Regional Water Quality Control Board; (g) National Marine Fisheries Service; (h) U.S. Fish and Wildlife

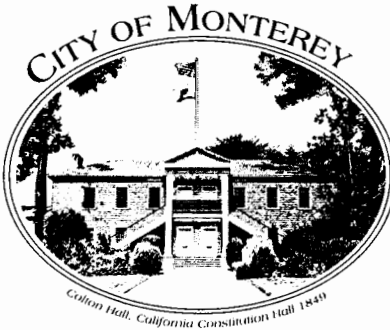
Service; and (i) U.S. Coast Guard. PRIOR TO OCCUPANCY, the Permittee shall submit for Executive Director review and approval a copy of a valid permit, letter of permission, or evidence that no permit/permission is necessary for the project approved by this coastal development permit from the following agencies: (j) Monterey County Department of Health; and (k) California Department of Health Services.

16. Incorporation of EIR Mitigations and City's Conditions. ~~All The Permittee shall submit to the Executive Director evidence of compliance with all of the City's adopted EIR mitigations and conditions of approval imposed on the project by the City of Monterey (City of Monterey Use Permit 00-019; see Exhibit 5) are incorporated as conditions of this approval. Any of the incorporated City conditions requiring materials to be submitted to the City and/or otherwise requiring City approval (such as Architectural Review Committee approval), shall also require the same materials to be submitted to, and/or the same approvals granted by, the Executive Director under the same review and approval criteria as specified in the City conditions.~~ For future condition compliance tracking purposes, such incorporated City conditions shall be considered subsections of this Special Condition 16. To the extent any such incorporated City conditions conflict with the other standard and special conditions (i.e., conditions other than this Special Condition 16) of this permit, such conflicts shall be resolved in favor of these other conditions.

17. Indemnification by Permittee/Liability for Costs and Attorneys Fees. By acceptance of this permit, the Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

18. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for Executive Director review and approval documentation demonstrating that the Permittee has executed and recorded against the parcels governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any

part, modification, or amendment thereof, remains in existence on or with respect to the subject property.



November 21, 2008

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Mayor:
CHUCK DELLA SALA

Councilmembers:
LIBBY DOWNEY
JEFF HAFFERMAN
NANCY SELFRIDGE
FRANK SOLLECITO

City Manager:
FRED MEURER

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Coastal Development Permit Application 3-08-013 - Ocean View Plaza

Dear Honorable Commissioners:

The City of Monterey has reviewed the proposed amendments to Coastal Development Permit Application (3-08-013). The City strongly supports modification of these conditions because the City's Commissions should have approval authority over the project's final design details.

The City of Monterey has an extensive design and historic preservation review process. Every building element, light fixture, sign and plant will be analyzed and approved. This is a lengthy and detailed review. The idea that these final design details would then undergo a second review by the Executive Director is inappropriate. What happens if the Executive Director disagrees with a particular bench, sign, or building treatment? We strongly feel that these design decisions can be most appropriately addressed at the local government level.

Moreover, changes develop during construction as specific issues are encountered. Oftentimes, this requires an immediate onsite review. It is impossible to expect the Coastal Commission staff to have the resources to meet these deadlines and not stop construction. Lastly, Monterey has a proven track record. The Intercontinental Clement Hotel was just completed and is a testament to our community's architectural review process in the coastal zone.

In closing, the City of Monterey requests that the amendments to Coastal Development Permit (3-08-013) be approved.

Sincerely,

Chuck Della Sala
Mayor

c: City Council
Deputy City Manager P&PW

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863



December 9, 2008

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Wednesday, December 10, 2008

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
W10a, CML-MAJ-2-07	City of Carmel	Correspondence	1
W10g, SCO-MAJ-3-03 Pt.2	Santa Cruz County	Postponement Request	5
W11a, 3-08-038	Port San Luis Harbor Dist.	Correspondence	7
W12a, -A-3-MRB-06-064	Black Hill Villas (Colmer)	Correspondence	9

W10a

City of Carmel-by-the-Sea

COMMUNITY PLANNING AND BUILDING DEPARTMENT

POST OFFICE DRAWER G

CARMEL-BY-THE-SEA, CA 93921

(831) 620-2010 OFFICE

(831) 620-2014 FAX

24 November 2008

California Coastal Commission
45 Fremont St, Ste 2000
San Francisco, CA 94105

RE: Carmel LCP Amendment 2-07

Dear Commissioners:

The City of Carmel-by-the-Sea is now in agreement with Coastal Commission staff regarding the proposed revisions to our LCP amendment. We respectfully request that the Commission approve the amendment as recommended by staff.

Thank you for your time and thoughtful consideration on this matter.

Sincerely,



Sean Conroy
Planning & Building Services Manager

W10a

James & Catherine Bell
P.O. Box 3757
Carmel-by-the-Sea, CA 93921
(831) 624-4234

November 8, 2008

CALIFORNIA COASTAL COMMISSION
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: W11B -- for hearing November 12, 2008

Dear Commissioners:

This is a clarification of our October 31 letter. A more thorough outline of our reasoning is warranted, especially because it might inspire a creative way for the Coastal Commission to help the Carmel City Council move forward with its particular low-income senior housing project without making blanket zoning changes. We hope you will have the time to read and consider its arguments. Please do not hesitate to contact us if it might be helpful.

We continue our strong opposition the zoning changes even though we understand and personally value the proposal by the Carmel Foundation for low-income housing. This particular project is a welcome development for our senior citizens, and it makes good sense in that location. We also know that the City Council faced and still faces time and expense pressures that were(I believe) among its reasons for proposing blanket changes in the zoning for the RC and R4 districts rather than seeking approval through its variance procedures.

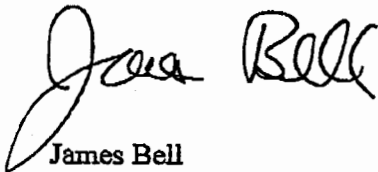
Having said that, we continue to strongly oppose the zoning change for the RC and R4 districts. The reasons in our letter of October 31 are articulated in more detail below.

Dense, multiunit low-income development in Carmel-by-the-Sea would not make sense economically for a developer in the present financial environment. Situations and contexts can change unpredictably in the future, however. Such projects may become economically feasible and they already are for a non-profit investor like the Carmel Foundation. Granting the rezoning in blanket fashion could make future non-desirable projects *prima facie* credible without variance procedures. More worrisome is that such could happen decades in the future, when the immediate pressures surrounding the present project could be largely forgotten or seem irrelevant. Even if some people could remember the situation, recalling the *ad hoc* rationale to question or oppose an undesirable project would likely be viewed as defensive at best. The precedent would have been set in the zoning changes and precedent always carries a great deal of weight.

Catherine and I do have a personal interest here. Single-family homes and condominiums in these zoning areas are not the rule but there are quite a few besides our own (a single-family home). We or future owners of such properties could be significantly impacted if the town makes a major zoning change for expeditious reasons, even if the particular project is highly desirable and, I believe, widely supported. The protections of variance procedures would be greatly compromised if not eliminated. That is also why the reasons given here are important for many home owners, and perhaps business owners as well, regardless of how many may be aware of the issues much less voice an opinion.

In closing, my wife and I ask the Coastal Commission to think creatively to see if it could help the Carmel City Council implement the Carmel Foundation project as a variance and hopefully without undue delay. We strongly oppose using the proposed zoning changes to accomplish that purpose, now and in the future.

Sincerely yours,

A handwritten signature in cursive script that reads "James Bell". The signature is written in dark ink and is positioned above the printed name.

James Bell

Cc: City Council of Carmel-by-the-Sea



COUNTY OF SANTA CRUZ

W10g

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

TOM BURNS, PLANNING DIRECTOR

California Coastal Commission
c/o Susan Craig
Central Coast District
725 Front Street, Suite 300
Santa Cruz, CA 95060

**SUBJECT: AGENDA ITEM w10g. SANTA CRUZ COUNTY LCP AMENDMENT NO.
SCO-MAJ-2- 06 PART 2 (NEIGHBORHOOD COMPATIBILITY)**

The County of Santa Cruz requests a continuance of this item, preferably to your March 2009 meeting in Monterey, to allow continuing discussion with Coastal staff on their recommendations.

Sincerely,

Tom Burns
Planning Director

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

BOARD OF COMMISSIONERS

BRIAN KREOWSKI
DREW BRANDY
JACK SCARBROUGH
CAROLYN MOFFATT
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Vice President
Secretary
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Commissioner



P.O. BOX 249 • AVILA BEACH
CALIFORNIA 93424
(805) 595-5400 • Fax 595-5404
www.portsanluis.com

STEPHEN A. McGRATH *Harbor Manager*
THOMAS D. GREEN *Legal Counsel*
PHILLIP J. SEXTON, CPA *Treasurer*

December 08, 2008

Via e-transmittal

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Mr. Jonathan Bishop
Coastal Program Analyst
California Coastal Commission
725 Front Street
Suite 300
Santa Cruz, CA 95060

RE: Permit Number 3-08-03b
Item Number: W11a
Application for Dredge Permit for Beach Nourishment

Dear Jonathon:

This letter is to serve as a response to the December 1, 2008 letter prepared by Mr. Gordon Hensely with the San Luis Obispo COASTKEEPER (SLO COASTKEEPER) and submitted to Mr. Patrick Kruer with the California Coastal Commission.

Review of Mr. Hensely's letter by Port of San Luis Harbor District Staff indicates that SLO COASTKEEPER is concerned with sediment sample analysis results that were reported in the September 2007 Center Coast Regional Water Quality Control Board (RWQCB) Technical Report "Environment Condition of Water, Sediment, and Tissue Quality in Central Coast Harbors". Specifically, Mr. Hensely is concerned with reported levels of Chromium, Mercury, Nickel, and Tributyltin (TBT) and as such recommends amending Special Condition 3 of the Coastal Development Permit Application so that sediment sampling and testing is conducted prior to the commencement of "EACH" dredging episode. In response to Mr. Hensley's concerns, we would like to offer the following summary of information that we feel provides further information regarding chemical constituent levels in sediment samples:

- o The six samples locations identified in the referenced RWQCB Technical Report were outside of the dredge zone within which sediment will be removed.



- Sediment samples were collected by the RWQCB by merely collecting two grab samples from the top 2-3 centimeters of surficial sediment.
- The Port San Luis Harbor District's consultants (Tenera Environmental) will be characterizing the sediments within the dredge zone at each of the sampling stations by collecting three individual cores collected along a line running perpendicular to the shoreline and proceeding down the natural slope of the bottom. Individual cores will be capped and extruded, then combined to *produce a composite sample representative of the mixed material that will be deposited on the beach by the dredge.*
- Mr. Hensley states that Chromium (Cr), Mercury (Hg), and Nickel (Ni) is of concern in sediment samples based on the 2007 RWQCB Technical Report.
 - As stated in the RWQCB Technical Report, "Elevated levels of nickel and chromium were measured, but this was probably due to naturally high levels from the serpentine soils". Serpentine rock is naturally occurring and found in the hillside along the harbor.
 - Cr, Ni, and Hg concentrations as reported in the RWQCB Technical Report were \leq the established Effects Range Low (ERL) values for each of these metals.
 - ERL is the concentration of a chemical in sediment below which toxic effects are rarely observed among sensitive species.
- Mr. Hensley also states that TBT (Tributyltin) is of concern based on the 2007 RWQCB Technical Report.
 - TBT was used as an antifouling agent in marine paint.
 - Harbors and Navigation Code Section 111 states: "Except as otherwise provided in this chapter, no person shall sell or use a TBT-based marine antifouling paint or coating in this state, and no person shall sell, rent, or lease in the waters of this state a vessel, fishing gear, or other item intended to be partially or completely submerged in water, if the vessel, gear, or other item has been painted or treated with a TBT-based marine antifouling paint or coating." It is the opinion



of Port San Luis Harbor Staff that TBT levels in all harbors will decrease.

- o The Sediment Sampling and Analysis Report prepared in support of the previous Dredge Permit Application reported Cr, Ni, and Hg concentrations at levels well below the established ERL for each chemical constituent (Hg was not detected in all 4 samples). Samples were collected in accordance with the previously described sample protocol by the Port San Luis Harbor District consultants.

The Port San Luis Harbor District appreciates the need to enforce water quality regulations and commits to conducting all activities in accordance with all regulations. The sampling and analysis plan proposed in support of the current Coastal Development Permit Application will provide a representative analysis of the sediment within the identified dredge zone. Sediment sampling activities costs the Port San Luis Harbor District approximately \$20,000 to implement a sampling and analysis plan for the testing of sediments. The Port San Luis Harbor District is also obligated to be a good steward of taxpayer money. Based on sample analysis results generated during the previous Coastal Development Permit Application and the results reported in the September 2007 RWQCB Technical Report, Port San Luis Harbor District Staff conclude that increased sampling of the sediment is not warranted and would present an unnecessary financial burden. Should sampling and analysis activities associated with the Dredge Permit Application generate laboratory results that indicate a significant increase in chemical constituents of concern (but below established ERL values), Port San Luis Harbor District Staff would agree that additional sampling for the constituents of concern would be warranted prior to the next dredge activity.

Thank you for your consideration on this matter. Should you have any additional questions, please do not hesitate to contact me at 805-595-5400.

Sincerely,

A handwritten signature in black ink, appearing to read "Anneline Weil". The signature is fluid and cursive, with a large initial "A" and "W".

Anneline Weil
Facility Manager

W11a

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DEC 01 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

EPI-Center, 1013 Monterey Street, Suite 207 San Luis Obispo, CA 93401

Phone: 805-781-9932 • Fax: 805-781-9384

San Luis Obispo COASTKEEPER®

December 1, 2008

Patrick Kruer, Chair
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 500
Santa Cruz, CA 95060

VIA FACSIMILE: 831-427-4877

Subject: Agenda Item W11a: CDP 3-08-038, Port San Luis Harbor District Dredging

Dear Chair Kruer and Honorable Commissioners,

On Wednesday December 10, 2008 you are scheduled to hear an application for a Coastal Development Permit allowing a 5-year dredging project at Port San Luis Harbor in San Luis Obispo County. I am writing to urge a change to Special Condition 3 and a re-evaluation of dredge spoils disposal alternatives.

San Luis Obispo COASTKEEPER®, a program of Environment in the Public Interest, is organized for the purpose of ensuring that the public has a voice with agencies and officials responsible for enforcing water quality, watershed and coastal planning regulations on the California Central Coast. As such, the SLO COASTKEEPER® and our 800 central coast supporters are concerned that the CDP as currently condition may adversely impact coastal water quality in and around Port San Luis Harbor.

In September 2007 the Central Coast Regional Water Quality Control Board Technical Report "Environmental Condition of Water, Sediment, and Tissue Quality in Central Coast Harbors" identified several chemicals of concern in sediment samples from Port San Luis Harbor, including Chromium, Mercury, Nickel, and Tributyltin (TBT). The Staff Report does not appear to have included a review of this study which presents significant new information regarding sediment contaminants at the Harbor.

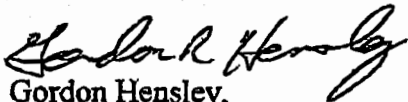


While SLO Coastkeeper is concerned that dredging might result in resuspension, remobilization, or redistribution of the identified heavy metals, of particular concern is presence of tributyltin. TBT, an antifouling agent on boat hulls, is known to be toxic to aquatic life and has been identified as an endocrine disrupter. The RWQCB report identifies high concentrations from sampling stations at one of the proposed dredge sites - the Harford Pier.

Special Condition 3 should be amended to better achieve the protections envisioned in Coastal Act Section 30231. I urge a change to Special Condition 3 that requires sediment sampling and testing prior to the commencement of EACH dredging episode.

In addition, SLO Coastkeeper urges re-evaluation of alternative dredge spoils disposal. The primary source of sediment/sand at the harbor is seasonal flow from San Luis Obispo Creek. SLO Creek is identified on the State Water Board 303(d) list of Impaired Waters for pollution from nutrients, pathogens, and priority organics. Alternative disposal methods or locations for dredge spoils contaminated with either these chemicals or the metals discussed above do not appear to have been adequately considered and application to local beaches would likely violate Coastal Act Section 30233.

Respectfully Submitted,



Gordon Hensley,
San Luis Obispo COASTKEEPER *



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DEC 09 2008

CALIFORNIA
COASTAL COMMISSIONFORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATIONS

Revocation Request
 Name or description of project, LCP, etc.: N. R-A-3-MEB-06-044 (Black Hills W)
 Date and time of receipt of communication: 2:00 P.M. Dec. 8, 2008
 Location of communication: Office (La Jolla, CA)
 Type of communication (letter, facsimile, etc.): Phone Conversation
 Person(s) initiating communication: Dave Neish
 Person(s) receiving communication: Pat Krue

Detailed substantive description of content of communication:
 (Attach a copy of the complete text of any written material received.)

Applicant's representative explained the revocation request by Project
opponents and indicated that there was no basis for the request. He
indicated that CC staff was recommending that the request be
denied and that the applicant (property owner) was in total
agreement with the CC staff recommendation

12/9/08
 Date

Pat Krue
 Signature of Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was

W12a

BLACK HILL VILLAS, L.P.
5000 Parkway Calabasas #110
Calabasas, CA 91302
P: (818) 222-5666 F: (818) 222-5668

November 25, 2008

Mr. Mike Watson
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

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DEC 01 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: R-A-3-MRB-06-064

Dear Mr. Watson:

As the applicant Black Hills Villas, L.P., we support the Coastal Commission Staff recommended denial of Save the Park's request to revoke CDP A-3-MRB-06-064. We believe that we did provide complete and accurate information related to the project.

As the applicant we feel two additional points should be added to the record supporting denial of the request to revoke the CDP:

1. Save the Park's request should be denied based on its lack of standing. Coastal Commission has a statutory requirement for persons eligible to appeal a project as set forth in the Public Resource Code. The Commission's "Appeal Information Sheet" states "aggrieved person, is any person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision being appealed, or who, by other appropriate means prior to a hearing, informed the local government of the nature of his/her concerns or who for good cause was unable to do either." Save the Park has no standing, because no one claiming to be a representative of Save the Park made an appearance at any of this project's public hearings at Morro Bay or at the Coastal Commission. No correspondence from any representative of Save the Park was submitted to the City of Morro Bay or the Coastal Commission prior to March 6, 2008.
2. Save the Park claims it just found information in magazine articles that could have affected the outcome of the public hearing. The information presented by Save the Park is not new or secret, and was publicly available and discoverable prior to the March 6, 2008 hearing. Furthermore, the information referred to by Save the Park's attorney was extracted from magazine articles written by third parties. Colmer and Black Hill Villas, LP. had no control over the content or accuracy of the writers of these articles.

Sincerely,



Black Hill Villas, LP
By: Colmer Construction, its General Partner
Wayne Colmer, President